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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/529,724	04/12/2005	Johannes J. Guns	4662-6	9141
23117 7590 06/25/2009 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER				
JACKSON, MONIQUE R				
ART UNIT		PAPER NUMBER		
1794				
MAIL DATE		DELIVERY MODE		
06/25/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/529,724

Applicant(s)

GUNS ET AL.

Examiner

Monique R. Jackson

Art Unit

1794

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SI/02)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The amendment filed 3/5/09 has been entered. New claims 26-28 have been added. Claims 1-28 are pending in the application. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claim Rejections - 35 USC § 103

2. Claims 1-25 and new claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Neumann (USPN 3,839,129) in view of Minnick et al for the reasons recited in the prior office action and restated below.

3. Neumann teaches a method of making an injection molded, decorative plastic article with a vacuum metallized surface comprising the basic sequential steps as instantly claimed wherein a metallized film is inserted into a mold cavity and the mold cavity is filled with molten plastic by means of injection molding, followed by cooling and removing of the molded article from the mold cavity (Entire document). Neumann teaches that the substrate layer of the metallized film is preferably a material which is identical with or compatible to the substance used to mold the article, with examples including acrylic resins, linear polyamides such as nylons, polyallomer materials, polyethylenes, polypropylenes, ABS resins, styrene acrylonitrile copolymers, polystyrene resins, impact polystyrenes containing synthetic or natural rubbers, polycarbonates, vinyl resins, methyl methacrylates, and various types of plastic papers, or any compatible mixture thereof, but do not specifically teach that the metallized film comprises at least one layer consisting essentially of a thermoplastic elastomer containing polyether segments as claimed. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize any polymeric or elastomeric material or select from suitable polymeric or

elastomeric materials based upon the intended end use of the final molded article, wherein copolyesters including copolyether esters would have been obvious given the teachings of polyesters in general, and to determine the optimum thickness or layers to provide the desired mechanical, physical and aesthetic properties for a particular end use, wherein the claimed thickness range is typical for decorative films. Further, Minnick shows that it is known to carry out a method of molding a composite article wherein the article includes a decorated film comprising at least one layer consisting essentially of a thermoplastic elastomer containing polyether segments (Column 8, lines 55-59). Minnick and Neumann are combinable because they are concerned with a similar technical field, namely, methods of molding decorative composites and hence, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Minnick's specific material for the film in Neumann in order to produce an article that is required to have the physical and chemical characteristics of a thermoplastic elastomer containing polyether segments, including those as instantly claimed such as Shore D hardness. Further, one having ordinary skill in the art at the time of the invention would have been motivated to provide additional decorative features by known method steps such as by laser marking based upon the desired decorative properties for a particular end use. With regards to the heating temperature recited in Claim 26, one having ordinary skill in the art at the time of the invention would have been motivated to utilize routine experimentation to determine the optimum heating temperature to produce the molded article based upon the materials utilized. With regards to Claim 27, Neumann teaches that the reflective composition can further comprise a polyester, such as PET protective layer, and that the reflective foil can be formed by metallization on any of the polyesters previously recited including PET. Neumann

teaches that the molten plastic and the substrate of the metallized foil are compatible and preferably the same material and hence it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize PET as the molten plastic to be injected to produce the molded article.

4. Claims 1-25 and new claims 26-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Loew (USPN 3,654,062) in view of Minnick for the reasons recited in the prior office action and restated below.

5. Loew teaches an injection molded article comprising a plastic material and a facing sheet which is a laminated structure comprising a vacuum metallized film on a polymer layer, wherein the article is formed by placing the facing sheet in the mold cavity and then injection molding the plastic material against facing sheet in the mold cavity, then cooling and removing the molded article as instantly claimed (Entire document). Though Loew teaches that the facing sheet is preferably polyethylene terephthalate having a thickness of 1/3 to 7 mils (Col. 1-2), Loew does not specifically limit the material of the facing sheet nor does Loew recite the use of an elastomer comprising polyether segments as instantly claimed. However, it would have been obvious to one having ordinary skill in the art at the time of the invention to utilize any polymeric or elastomeric material or select from suitable polymeric or elastomeric materials based upon the intended end use of the final molded article, wherein copolyesters including copolyether esters would have been obvious given the teachings of polyesters in general, and to determine the optimum thickness or layers to provide the desired mechanical, physical and aesthetic properties for a particular end use, wherein the claimed thickness range is typical for decorative films. Further, Minnick shows that it is known to carry out a method of molding a

composite article wherein the article includes a decorated film comprising at least one layer consisting essentially of a thermoplastic elastomer containing polyether segments, including elastomers derived as instantly claimed (Col. 8, lines 55-59; Col. 15, lines 51-57). Minnick and Loew are combinable because they are concerned with a similar technical field, namely, methods of molding decorative composites and hence, it would have been prima facie obvious to one of ordinary skill in the art at the time the invention was made to use Minnick's specific material for the film in Loew in order to produce an article that is required to have the physical and chemical characteristics of a thermoplastic elastomer containing polyether segments, including those as instantly claimed such as Shore D hardness. Further, one having ordinary skill in the art at the time of the invention would have been motivated to provide additional decorative features by known method steps such as by laser marking based upon the desired decorative properties for a particular end use. With regards to the heating temperature recited in Claim 26, one having ordinary skill in the art at the time of the invention would have been motivated to utilize routine experimentation to determine the optimum heating temperature to produce the molded article based upon the materials utilized.

Response to Arguments

6. Applicant's arguments filed 3/5/09 have been fully considered but they are not persuasive. It is first noted that the Applicant appears to be arguing the references separately and not as presented in combination as discussed above. Further, it is noted that though the primary references recite that PET is one of the preferred thermoplastic materials, the primary references do not limit the inventions to PET only and hence the teachings of Minnick are combinable with the primary references to provide motivation to utilize the copolyesters recited by Minnick as the

polyester resin or thermoplastic material to be metallized in Neumann or Loew. Further, with regards to the Applicant's arguments over the 3-D limitation, it is noted that both Neumann and Loew teach 3-D molded articles and hence read upon this limitation. In terms of Applicant's "surprising advantages", the fact that applicant has recognized another advantage which would flow naturally from following the suggestion of the prior art cannot be the basis for patentability when the differences would otherwise be obvious. See *Ex parte Obiaya*, 227 USPQ 58, 60 (Bd. Pat. App. & Inter. 1985). Therefore, in the absence of a clear showing of unexpected results, the Examiner maintains her position that the instant invention would have been obvious over the teachings of the prior art.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R. Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 10:00AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Callie Shosho can be reached on 571-272-1123. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Monique R Jackson/
Primary Examiner, Art Unit 1794
June 22, 2009